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DEPARTMENT OF COMMERCE

International Trade Administration

[C-570-085]

Certain Quartz Surface Products from the People's Republic of China: Final Affirmative Countervailing Duty Determination, and Final Affirmative Determination of Critical Circumstances

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (Commerce) determines that countervailable subsidies are being provided to producers and exporters of certain quartz surface products (quartz surface products) from the People's Republic of China (China).

DATES: Applicable [Insert date of publication in the *Federal Register*].

FOR FURTHER INFORMATION CONTACT: Darla Brown or Joshua Tucker, AD/CVD

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SUPPLEMENTARY INFORMATION:

Background

The petitioner in this investigation is Cambria Company, LLC. In addition to the Government of China (GOC), the mandatory respondents in this investigation are Fasa Industrial Corporation Limited (Fasa Industrial), Foshan Hero Stone Co., Ltd. (Hero Stone), and Foshan Yixin Stone Co., Ltd. (Foshan Yixin).

The events that occurred since Commerce published the *Preliminary Determination*¹ on September 21, 2018; the post-preliminary analysis² on November 6, 2018; and the *Preliminary Critical Circumstances Determination*³ on November 15, 2018, are discussed in the Issues and Decision Memorandum, which is hereby adopted by this notice.⁴ The Issues and Decision Memorandum also details the changes we made since the *Preliminary Determination* to the subsidy rates calculated for the mandatory respondents and all other producers/exporters. The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <http://access.trade.gov>, and is available to all parties in the Central Records Unit, room B8024 of the main Department of Commerce building. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at <http://enforcement.trade.gov/frn/index.html>. The signed Issues and Decision Memorandum and the electronic version of the Issues and Decision Memorandum are identical in content.

Commerce exercised its discretion to toll all deadlines affected by the partial Federal government closure from December 22, 2018, through the resumption of operations on January

¹ See *Certain Quartz Surface Products from the People's Republic of China: Preliminary Affirmative Countervailing Duty Determination, and Alignment of Final Determination with Final Antidumping Duty Determination*, 83 FR 47881 (September 21, 2018) (*Preliminary Determination*), and accompanying Preliminary Decision Memorandum.

² See Memorandum, "Post-Preliminary Analysis of Countervailing Duty Investigation: Certain Quartz Surface Products from the People's Republic of China," dated November 6, 2018.

³ See *Certain Quartz Surface Products from the People's Republic of China: Preliminary Affirmative Determination of Critical Circumstances, in Part, in the Countervailing Duty Investigation*, 83 FR 57419 (November 15, 2018) (*Preliminary Critical Circumstances Determination*).

⁴ See Memorandum, "Issues and Decision Memorandum for the Final Determination in the Countervailing Duty Investigation of Certain Quartz Surface Products from the People's Republic of China," dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

29, 2019.⁵ The revised deadline for the final determination of this investigation is now May 14, 2019.

Period of Investigation

The period of investigation is January 1, 2017, through December 31, 2017.

Scope of the Investigation

The products covered by this investigation are quartz surface products from China. For a complete description of the scope of the investigation, *see* Appendix I.

Scope Comments

During the course of this investigation and the concurrent less-than-fair-value (LTFV) investigation of quartz surface products from China, Commerce received scope comments from interested parties. Commerce issued a Preliminary Scope Decision Memorandum to address these comments and set aside a period of time for parties to address scope issues in scope case and rebuttal briefs.⁶ We received comments from interested parties on the Preliminary Scope Decision Memorandum, which we addressed in the Final Scope Decision Memorandum.⁷ In addition, on February 14, 2019, the petitioner submitted a proposed clarification to the scope of this and the concurrent LTFV investigation.⁸ In response to the petitioner's proposed scope clarification, Commerce established a separate scope briefing schedule and received case and

⁵ See Memorandum to the Record from Gary Taverman, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance, "Deadlines Affected by the Partial Shutdown of the Federal Government," dated January 28, 2019. All deadlines in this segment of the proceeding have been extended by 40 days.

⁶ See Memorandum, "Certain Quartz Surface Products from the People's Republic of China: Scope Comments Decision Memorandum for the Preliminary Determination," dated September 14, 2018 (Preliminary Scope Decision Memorandum).

⁷ See Memorandum, "Certain Quartz Surface Products from the People's Republic of China: Final Scope Comments Decision Memorandum," dated May 10, 2019 (Final Scope Decision Memorandum).

⁸ See Petitioner's Letter, "Certain Quartz Surface Products from the People's Republic of China: Request to Extend Deadline to Submit Factual Information," dated February 14, 2019.

rebuttal briefs regarding the proposed clarification, which we addressed in the Proposed Scope Clarification Decision Memorandum.⁹ As a result, for this final determination, we made certain changes to the scope of these investigations from that published in the *Preliminary Determination*.¹⁰ See Appendix I.

⁹ See Memorandum, “Certain Quartz Surface Products from the People’s Republic of China: Proposed Scope Clarification Decision Memorandum,” dated concurrently with this notice (Proposed Scope Clarification Memorandum).

¹⁰ This scope modification will not apply to merchandise entered prior to the publication of this notice in the *Federal Register*.

Final Affirmative Determination of Critical Circumstances

In the *Preliminary Critical Circumstances Determination*, Commerce preliminarily determined, pursuant to section 703(e)(1) of the Tariff Act of 1930, as amended (the Act), that critical circumstances exist for Fasa Industrial and Hero Stone, but not for Foshan Yixin or the companies covered by the all-others rate. For this final determination, we continue to find that critical circumstances exist for Fasa Industrial and Hero Stone pursuant to section 705(a)(2) of the Act. Moreover, we now find that Foshan Yixin and its unaffiliated suppliers, Foshan Nanhai Julang Quartz Co. (Foshan Nanhai) and Qinguan Yuefeng Decoration Material Co. (Qinguan Yuefeng), as well as the companies covered by the all-others rate received export-contingent countervailable subsidies during the POI through the Export Buyer's Credit program that are inconsistent with the Subsidies and Countervailing Measures Agreement and had massive imports of the subject merchandise over a relatively short period. Therefore, in accordance with section 705(a)(2) of the Act, we also find that critical circumstances exist with respect to Foshan Yixin, Foshan Nanhai, Qinguan Yuefeng, and the companies covered by the all-others rate. For the analysis of critical circumstances for this final determination, *see* the Issues and Decision Memorandum at Comment 10.

Analysis of Subsidy Programs and Comments Received

In the Issues and Decision Memorandum, we address the subsidy programs under investigation and all issues raised in parties' case and rebuttal briefs, other than those issues related to scope. A list of the issues that parties raised, and to which we responded in the Issues and Decision Memorandum, is attached to this notice as Appendix II.

Methodology

Commerce conducted this investigation in accordance with section 701 of the Act. For each of the subsidy programs found countervailable, Commerce determines that there is a subsidy, *i.e.*, a financial contribution by an “authority” that gives rise to a benefit to the recipient, and that the subsidy is specific.¹¹ For a full description of the methodology underlying our final determination, *see* the Issues and Decision Memorandum.

Verification

As provided in section 782(i) of the Act, Commerce verified the subsidy information reported by Foshan Yixin. We used standard verification procedures, including an examination of relevant accounting records and original source documents provided by the respondent.¹²

¹¹ *See* sections 771(5)(B) and (D) of the Act regarding financial contribution; section 771(5)(E) of the Act regarding benefit; and section 771(5A) of the Act regarding specificity.

¹² *See* Memorandum, “Verification of the Questionnaire Responses of Foshan Yixin Stone Co., Ltd.,” dated December 14, 2018.

Changes Since the Preliminary Determination

In addition to now finding critical circumstances for Foshan Yixin and companies covered by the all-others rate, based on our review and analysis of the comments received from parties and corrections presented at verification, we made certain changes to the subsidy rate calculations for Foshan Yixin. We also assigned individual estimated subsidy rates based on adverse facts available to Foshan Yixin's unaffiliated suppliers that failed to cooperate in this investigation: Foshan Nanhai and Qinguan Yuefeng. As a result of the changes to Foshan Yixin's calculated rate, Commerce has also revised the all-others rate. For a discussion of these changes, *see* the Issues and Decision Memorandum.¹³

Final Determination

In accordance with section 705(c)(1)(B)(i)(I) of the Act, we calculated an individual estimated subsidy rate for Foshan Yixin (for entries produced and exported by Foshan Yixin), and established individual estimated subsidy rates for Fasa Industrial, Foshan Nanhai, Hero Stone, and Qinguan Yuefeng. Section 705(c)(5)(A)(i) of the Act states that, for companies not individually investigated, we will determine an "all others" rate equal to the weighted-average countervailable subsidy rates established for exporters and producers individually investigated, excluding any zero and *de minimis* countervailable subsidy rates, and any rates determined entirely under section 776 of the Act. In the final determination of this investigation, Commerce calculated rates for Fasa Industrial and Hero Stone in accordance with section 776 of the Act.¹⁴ Therefore, the only rate that is not zero, *de minimis*, or based entirely on facts otherwise

¹³ *See* Issues and Decision Memorandum.

¹⁴ We also assigned rates to Foshan Yixin's unaffiliated suppliers Foshan Nanhai and Qinguan Yuefeng in accordance with section 776 of the Act.

available is the rate calculated for Foshan Yixin. Consequently, the rate calculated for Foshan Yixin is also assigned as the rate for “all other” producers and exporters.

Commerce determines the total estimated net countervailable subsidy rates to be the following:

Company	Subsidy Rate
Foshan Hero Stone Co., Ltd. ¹⁵	190.99 percent
Fasa Industrial Corporation Limited	190.99 percent
Foshan Yixin Stone Co., Ltd.	45.32 percent
Foshan Nanhai Julang Quartz Co.	190.99 percent
Qinguan Yuefeng Decoration Material Co.	190.99 percent
All Others	45.32 percent

Disclosure

We intend to disclose the calculations performed to parties in this proceeding within five days of the date of publication of this notice, in accordance with 19 CFR 351.224(b).

Continuation of Suspension of Liquidation

As a result of our *Preliminary Determination of Critical Circumstances* and pursuant to sections 703(d)(1)(B) and (d)(2) of the Act, Commerce instructed U.S. Customs and Border Protection (CBP) to suspend liquidation of entries of subject merchandise for Fasa Industrial and Hero Stone, as described in the scope of the investigation section, entered, or withdrawn from warehouse, for consumption on or after June 23, 2018, which is 90 days prior to the date of publication of the *Preliminary Determination* in the *Federal Register*. Additionally, as a result of our *Preliminary Determination*, for Foshan Yixin and the companies covered by the all-others rate, Commerce instructed CBP to suspend liquidation of entries of subject merchandise, as

¹⁵ Commerce has found the following companies to be cross-owned with Foshan Hero Stone Co., Ltd.: Mingwei Quartz New Environmental Protection Materials Co., Ltd.; and Foshan Quartz Stone Imp & Exp Co., Ltd.

described in the scope of the investigation section, entered, or withdrawn from warehouse, for consumption on or after the date of publication of the *Preliminary Determination* in the *Federal Register*. In accordance with section 703(d) of the Act, we issued instructions to CBP to discontinue the suspension of liquidation for countervailing duty (CVD) purposes for subject merchandise entered, or withdrawn from warehouse, on or after January 19, 2019, but to continue the suspension of liquidation of all entries from September 21, 2018 (or, in the case of Fasa Industrial and Hero Stone, June 23, 2018), through January 18, 2019.

If the U.S. International Trade Commission (ITC) issues a final affirmative injury determination, we will issue a CVD order, reinstate the suspension of liquidation under section 706(a) of the Act, and require a cash deposit of estimated countervailing duties for such entries of subject merchandise in the amounts indicated above. If the ITC also issues a final affirmative determination of critical circumstances, on the basis of our final affirmative critical circumstances determination, we will additionally instruct CBP to suspend liquidation and require a cash deposit on all entries of quartz surface products from China effective June 23, 2018. If the ITC issues a final affirmative injury determination but a final negative determination of critical circumstances, we will instruct CBP to liquidate entries prior to the date of publication of the *Preliminary Determination* without regard to duties, and all estimated duties deposited or securities posted as a result of the suspension of liquidation will be refunded or canceled. If the ITC determines that material injury, or threat of material injury, does not exist, this proceeding will be terminated and all estimated duties deposited or securities posted as a result of the suspension of liquidation will be refunded or canceled.

International Trade Commission Notification

In accordance with section 705(d) of the Act, we will notify the ITC of our

determination. Because Commerce's final determination is affirmative, in accordance with section 705(b) of the Act, the ITC will determine, within 45 days, whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports of quartz surface products from China, or sales (or the likelihood of sales) for importation, of quartz surface products from China. If the ITC determines that material injury or threat of material injury does not exist, the proceeding will be terminated and all cash deposits will be refunded. If the ITC determines that such injury does exist, Commerce will issue a CVD order directing CBP to assess, upon further instruction by Commerce, countervailing duties on all imports of the subject merchandise that are entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation, as discussed above in the "Continuation of Suspension of Liquidation" section.

Notification Regarding Administrative Protective Orders

In the event that the ITC issues a final negative injury determination, this notice will serve as the only reminder to parties subject to the administrative protective order (APO) of their responsibility concerning the destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a sanctionable violation.

Notification to Interested Parties

This determination is issued and published pursuant to sections 705(d) and 777(i) of the Act.

Dated: May 14, 2019.

Jeffrey I. Kessler,
Assistant Secretary
for Enforcement and Compliance.

Appendix I

Scope of the Investigation

The merchandise covered by the investigation is certain quartz surface products.¹⁶ Quartz surface products consist of slabs and other surfaces created from a mixture of materials that includes predominately silica (*e.g.*, quartz, quartz powder, cristobalite) as well as a resin binder (*e.g.*, an unsaturated polyester). The incorporation of other materials, including, but not limited to, pigments, cement, or other additives does not remove the merchandise from the scope of the investigation. However, the scope of the investigation only includes products where the silica content is greater than any other single material, by actual weight. Quartz surface products are typically sold as rectangular slabs with a total surface area of approximately 45 to 60 square feet and a nominal thickness of one, two, or three centimeters. However, the scope of this investigation includes surface products of all other sizes, thicknesses, and shapes. In addition to slabs, the scope of this investigation includes, but is not limited to, other surfaces such as countertops, backsplashes, vanity tops, bar tops, work tops, tabletops, flooring, wall facing, shower surrounds, fire place surrounds, mantels, and tiles. Certain quartz surface products are covered by the investigation whether polished or unpolished, cut or uncut, fabricated or not fabricated, cured or uncured, edged or not edged, finished or unfinished, thermoformed or not thermoformed, packaged or unpackaged, and regardless of the type of surface finish.

In addition, quartz surface products are covered by the investigation whether or not they are imported attached to, or in conjunction with, non-subject merchandise such as sinks, sink bowls, vanities, cabinets, and furniture. If quartz surface products are imported attached to, or in conjunction with, such non-subject merchandise, only the quartz surface product is covered by the scope.

Subject merchandise includes material matching the above description that has been finished, packaged, or otherwise fabricated in a third country, including by cutting, polishing, curing, edging, thermoforming, attaching to, or packaging with another product, or any other finishing, packaging, or fabrication that would not otherwise remove the merchandise from the scope of the investigation if performed in the country of manufacture of the quartz surface products.

The scope of the investigation does not cover quarried stone surface products, such as granite, marble, soapstone, or quartzite. Specifically excluded from the scope of the investigation are crushed glass surface products. Crushed glass surface products must meet each of the following criteria to qualify for this exclusion: (1) the crushed glass content is greater than any other single material, by actual weight; (2) there are pieces of crushed glass visible across the surface of the product; (3) at least some of the individual pieces of crushed glass that are visible across the surface are larger than one centimeter wide as measured at their widest cross-section (glass

¹⁶ Quartz surface products may also generally be referred to as engineered stone or quartz, artificial stone or quartz, agglomerated stone or quartz, synthetic stone or quartz, processed stone or quartz, manufactured stone or quartz, and Bretonstone®.

pieces); and (4) the distance between any single glass piece and the closest separate glass piece does not exceed three inches.

The products subject to the scope are currently classified in the Harmonized Tariff Schedule of the United States (HTSUS) under the following subheading: 6810.99.0010. Subject merchandise may also enter under subheadings 6810.11.0010, 6810.11.0070, 6810.19.1200, 6810.19.1400, 6810.19.5000, 6810.91.0000, 6810.99.0080, 6815.99.4070, 2506.10.0010, 2506.10.0050, 2506.20.0010, 2506.20.0080, and 7016.90.10. The HTSUS subheadings set forth above are provided for convenience and U.S. Customs purposes only. The written description of the scope is dispositive.

Appendix II

List of Topics Discussed in the Issues and Decision Memorandum

- I. Summary
- II. Background
- III. Final Determination of Critical Circumstances
- IV. Scope Comments
- V. Use of Adverse Facts Available
- VI. Subsidies Valuation Information
- VII. Analysis of Programs
- VIII. Analysis of Comments

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| Comment 1: | Whether This Investigation Was Improperly Initiated |
| Comment 2: | The Application of AFA to Hero Stone |
| Comment 3: | The Application of AFA to Foshan Yixin's and Hero Stone's Unaffiliated Suppliers of Subject Merchandise |
| Comment 4: | The Application of AFA to Input Market Distortion |
| Comment 5: | The Application of AFA Regarding Whether Inputs are Specific |
| Comment 6: | Whether Commerce's Use of a Tier Two Benchmark Takes into Account Prevailing Market Conditions in China |
| Comment 7: | The Benchmark Used in the Calculation of the Provision of Polyester Resin for Less Than Adequate Remuneration (LTAR) Program |
| Comment 8: | The Benchmark Used in the Calculation of the Provision of Quartz for LTAR Program |
| Comment 9: | Whether Commerce Should Continue to Treat Quartz "Powder" as Crushed Quartz Sand |
| Comment 10: | Whether Commerce's Preliminary Critical Circumstances Determination Was Lawful |

- IX. Recommendation

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